

## Part 3 – Selection process for magistrates

Part 3 of the Directions is relevant to recruitment advisory committees only.

### Guiding principles

3.1. These principles apply to the handling of all applications to the magistracy:

- applications must be handled fairly, consistently and expeditiously;
- candidates must be assessed on merit against the six key qualities. No other factors may be taken into account;
- candidates must be treated with courtesy and respect;
- candidates must not be disadvantaged on the basis of any protected characteristics as set out in the Equality Act 2010<sup>1</sup>;
- information about an individual gained through the selection process is confidential. The selection process itself is not confidential.

### The Key Qualities

3.2. Magistrates must:

<b>Good character</b>
<ul style="list-style-type: none"><li>• have personal integrity, be circumspect and able to maintain confidences; and</li><li>• have nothing in their private or working life, or in the lives of their family or close friends, which could bring them or the magistracy into disrepute.</li></ul>
<b>Understanding and communication</b>
<ul style="list-style-type: none"><li>• be able to communicate effectively with colleagues, court users and court staff; and</li><li>• be able to comprehend relevant facts reasonably quickly, follow evidence and arguments, and concentrate, often for long periods of time.</li></ul>

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

<b>Social awareness</b>
<ul style="list-style-type: none"> <li>• appreciate and accept the need for the rule of law in society;</li> <li>• have a good knowledge and understanding of social issues in the area in which they wish to serve (see 3.95)</li> <li>• have respect for, and some understanding (to be developed through training) of people from different ethnic, cultural or social backgrounds.</li> </ul>
<b>Maturity and sound temperament</b>
<ul style="list-style-type: none"> <li>• be able to relate to, and work with, others;</li> <li>• have a sense of fairness and be considerate and courteous; and</li> <li>• be open-minded and willing to consider the views and advice of others.</li> </ul>
<b>Sound judgement</b>
<ul style="list-style-type: none"> <li>• be able to think logically, weigh arguments and reach a balanced decision; and</li> <li>• be objective, and have the ability to recognise and set aside their prejudices.</li> </ul>
<b>Commitment and reliability</b>
<p>To help ensure the speedy and efficient conduct of court business, sittings in the magistrates' court will almost always be planned on a full-day basis. To meet this need, magistrates must:</p> <ul style="list-style-type: none"> <li>• be willing and able to undertake the minimum sitting requirement of 13 days, or (where that is not possible) 26 half-days per year*, and mandatory training; and</li> <li>• be able to undertake their duties on a regular basis.</li> </ul> <p>*see guidance at <b>paragraphs 5.4 to 5.21</b></p>

## Welsh language-essential posts

- 3.3. Advisory committees in Wales which need to recruit to vacancies deemed to be 'Welsh language-essential' should follow the guidance at **Appendix 3A**.

## Applying to become a magistrate

- 3.4. Application forms and a candidate information pack are available online at [www.gov.uk/become-magistrates](http://www.gov.uk/become-magistrates).
- 3.5. Hard-copy application forms will only be provided in exceptional circumstances.
- 3.6. Advisory committees can obtain copies of application forms in Braille from Magistrates HR. Please be aware when making a request, that they can be a delay in obtaining a stock of these.
- 3.7. Advisory committees must not use locally produced versions of application forms or guidance for applicants, or send out any information which conflicts with the Directions. However, it is good practice to provide applicants with helpful information such as details of magistrates' courts and how to arrange observational visits.

## Applications to criminal court - observational visits to a magistrates' court

- 3.8. Applicants for criminal court are informed (in the candidate information pack that they must make at least two observational visits to a magistrates' court when it is sitting in general sessions, within the year before completing their application form (see also **paragraph 3.20**).
- 3.9. Reasonable adjustments should be made to enable anyone with a disability to make an observational visit to court.

## Applications to family court - digital material research

- 3.10. Those who intend to make an application to sit in the family court are not permitted to observe proceedings in a family court but are required to have researched the three websites referenced in the candidate information (see also **paragraph 3.21**).

## Receiving and dealing with applications

### Receipt and acknowledgement

- 3.11. Applications should be acknowledged within **five working days** of receipt.
- 3.12. Advisory committees may like to consider operating a system for contacting speculative applicants on initiation of recruitment.

### Record-keeping

- 3.13. Committees should keep applications of candidates not appointed, destroying them after six years of date of receipt.

- 3.14. The application form for each magistrate appointed should be retained while they remain active and destroyed six years after they resign or retire.
- 3.15. A written record **must** be kept of the reasons for a decision not to proceed with an application.

#### **Checking for factors which lead to automatic disqualification**

- 3.16. Secretaries should identify any applicant who is automatically disqualified from appointment under **Part 2** of these Directions and inform them within **ten working days** of receipt of their application why they cannot be considered.
- 3.17. A list of any applicants sifted out due to automatic disqualification should be made available to the committee. Members should be permitted to see the application forms on request.

#### **Procedure where disqualification depends on the particular circumstances**

- 3.18. Secretaries should identify any applicants who *may* be disqualified for appointment under **Part 2** of these Directions, and the reasons.
- 3.19. The decision on whether to sift such applications rests with the advisory committee or quorum, and should be considered within **10 working days** of closing date for applications.

#### **Failure to undertake court observational visits**

- 3.20. Advisory committees should not consider applications to the adult court if applicants have failed to undertake at least **two** visits (see **paragraph 3.8**).

#### **Failure to research digital material**

- 3.21. Advisory committees should not consider applications to the family court if applicants have not researched the digital material referenced in the candidate information.

#### **Previous applicants**

- 3.22. Advisory committees are not required to consider candidates who have applied within the past **two** years and failed to demonstrate the six key qualities. The decision as to whether or not to consider such applications rests with the advisory committee and should be dealt with on an individual basis as in **paragraph 3.19** above.

#### **Personal knowledge about candidates**

- 3.23. Where a committee member suggests that it would be inappropriate to proceed with an application on the basis of personal knowledge about a candidate, the advisory committee or quorum should discuss the matter. A

decision not to proceed must be a decision of the full advisory committee or quorum.

- 3.24. Interview panel members must not conduct their own research into candidates, for example by doing internet searches against their names or other known details about them. Nor should research be done in any other form of social media, for example by putting out a message via an online “blog” entry or “twitter” account asking for background information on a candidate. Interview panels must work only from the papers: i.e. the completed application form and references, and completed first interview assessments at second interview.

### **Applicants’ location**

- 3.25. The expectation is that candidates will be applying in an area in which they either live or work as there is a need for them to show they have a good understanding of crime/family and social context issues in the area in which they wish to serve (see also **paragraph 3.95**).

### **Applying to more than one advisory committee/jurisdiction at the same time**

- 3.26. Applicants should only apply for one advisory committee area, and for either family or criminal court at any one time. This is due to different training requirements for each type of court and the resulting commitment needed from newly appointed magistrates both in attendance of training and familiarising themselves with their new role, on top of meeting minimum sittings requirements.

### **Obtaining references**

- 3.27. Three references must be obtained from individuals who have known the candidate for at least three years, using the standard form at **Appendix 3B**
- 3.28. Where the candidate is in employment, one of the references should be from the employer (for example, the candidate’s current manager).
- 3.29. Advisory committees should request references in time for them to be considered at interview.
- 3.30. Committees should make clear to referees the date by which references should be received.
- 3.31. Advisory committees should make what they consider to be reasonable and proportionate efforts to chase any late references by asking the candidate to contact the referee.
- 3.32. If the candidate states that the delay is caused by the referee being away, they should be required to identify an alternative referee.
- 3.33. Committees should not proceed with an application if all references have not been received. The candidate should be informed of the decision in

writing and informed that they may apply again when future vacancies arise.

### **Restrictions on who can provide references**

- 3.34. Referees must not be in an intimate or familial relationship with the candidate.
- 3.35. References should not be provided by anyone who is likely to appear before the court to which the candidate might be appointed.
- 3.36. Only one magistrate can be nominated as a referee.

### **Confidentiality of references**

- 3.37. References must be kept confidential.
- 3.38. Committees are free to explore **in general terms** relevant issues raised by references insofar as they pertain to the key qualities. However, references must not be discussed in a way that could enable the candidate to identify the individual referee.

### **Benchmarking**

- 3.39. To help ensure consistent scoring across panels, committees should conduct benchmarking exercises before an interview programme commence.

## **Managing the number of applicants to be interviewed**

- 3.40. Advisory committees must be mindful of resource implications when deciding the number of candidates to invite to interview. As a general guideline, committees should aim to interview an average of **three candidates** for each vacancy, but committees may use their discretion in setting a ratio of candidates to interview as local circumstances can differ.
- 3.41. Committees should always be clear in any recruitment advertising and associated information for applicants that it may not be possible to interview everyone who applies.

### **Duration of attraction campaign**

- 3.42. This should be decided before recruitment activity begins and the duration of each campaign must be shown in any advertising materials or associated information.

### **Sifting of Applications**

- 3.43. To ensure the quality of candidates being invited to interview, and to assist with appropriate use of an advisory committee resource, all applications received must be sifted against the key qualities to decide which

candidates to interview. This allows advisory committees to reduce their field of candidates to a manageable number for interview using an objective and consistent process.

- 3.44. Sift panels should be as diverse as possible, recognising that advisory committees are reliant on the availability of members to participate in sifting.

#### **Information available to sift panels**

- 3.45. Personal details of applicants will be removed from application forms by advisory committee secretariats, with each application being allocated an applicant identifier number by the committee secretariat. This is to ensure that only relevant information is considered at the sift stage.

#### **Sift panels**

- 3.46. Advisory committee members must have attended the training for the recruitment and selection of magistrates before participating in sifting.
- 3.47. Sifting panels should be made up of two advisory committee members; one magistrate and one non-magistrate member.
- 3.48. If committees experience difficulties in securing sufficient sift panel members, they should seek assistance from another recruitment committee.

#### **The sift**

- 3.49. Sift panels should assess applications solely on merit against key qualities.
- 3.50. Each panel member should individually assess each application using **Appendix 3C**.

#### **Scoring of candidates' applications**

- 3.51. Applicants must receive a 'demonstrated' for 'Good character' and for 'commitment and reliability', to be invited to interview
- 3.52. For all other key qualities, sift panels are required to operate the following scoring system.
- 0** Not demonstrated – little or no positive evidence
  - 1** Demonstrated – generally positive evidence
  - 2** Well demonstrated – positive evidence
  - 3** Very well demonstrated
- 3.53. Applicants receiving a '0' in two or more of the key qualities should not be invited to interview.

- 3.54. The panel should then reach a consensus and complete a sift assessment form (**Appendix 3C**) recording the final agreed decision.
- 3.55. Advisory committee secretaries should obtain clarification from panels if the assessment form is not clear.

### **Recording of sift scores**

- 3.56. The scores from each sift panel should be recorded, with the highest scoring applicant at the top and then in descending order. The record should clearly show those candidates that should not be invited to interview based on **paragraphs 3.51 – 3.53** above.
- 3.57. At the conclusion of the sift, where the number of applicants suitable for interview, exceeds the maximum number to be interviewed, the sift scores will be considered by the advisory committee or a quorum of the advisory committee to decide which candidates should, on merit, be invited to interview.

### **Advisory committee consideration of sift outcomes**

- 3.58. Advisory committees/a quorum of the advisory committee will decide, based on the number of new magistrates required and on how many they wish to interview for each vacancy, what the cut-off score should be. Applicants achieving the cut-off score or higher will be invited to interview.
- 3.59. Applicants not being invited to interview should be written to and informed of this, advised that feedback at sift stage is not available, and made aware that they are free to apply again when the committee has vacancies in the future.

### **Practical arrangements for interviews**

- 3.60. It is recommended that, wherever possible, first and second interviews should take place on the same day. Arrangements for interviews should be made clear to candidates as far in advance as possible so that time off from work or other commitments can be arranged.

### **Location**

- 3.61. Interviews must be held in a public building. Venues must be secure and accessible to all candidates, including those with disabilities. Advisory committees are encouraged to consider all public buildings available to them (see **paragraphs 3.85 and 3.86** below).



### **Reimbursement of expenses to candidates**

- 3.62. Candidates will not generally be reimbursed for the cost of travelling to and from interviews, or for any other expenses incurred in the process of pursuing their application.
- 3.63. Interview invitations should make clear that expenses will not be reimbursed unless there are exceptional circumstances such as in relation to a reasonable adjustment. Candidates wishing to seek reimbursement must contact the advisory committee to discuss **before** committing to any expenditure.
- 3.64. Any decision to reimburse costs to individual candidates would need to be given proper approval by HMCTS.
- 3.65. Following their interview(s), the candidate would need to submit proof of expenditure (e.g. a rail ticket). Payment of reimbursed costs should then be arranged by HMCTS.

### **The role of secretaries in relation to interviews**

- 3.66. Secretaries should not sit in on interviews, although they may observe interviews by prior arrangement (see **paragraph 3.81**). However, there should always be a secretary (or their delegate) available to advise panels on any administrative or policy issues in connection with the selection process.
- 3.67. Secretaries, or their delegate, should also quality-check completed assessment forms and raise any issues or concerns with the panel chair.

### **Panel members' responsibility for note-taking**

- 3.68. Panel members may make their own notes during the interview when they are not talking to the candidate.
- 3.69. The panel chair will be responsible for accurate completion of the panel's written assessment at the end of each interview.
- 3.70. The final written assessment must be given to the advisory committee secretariat at the end of the interview session.
- 3.71. All individual notes must be handed to the advisory committee secretariat at the end of the interview session for secure destruction.

### **Interview panels**

- 3.72. Advisory committee members **must** have attended the recruitment training before participating in the selection process.
- 3.73. Interviews should normally be conducted by a **three-member panel** (including a chair).

- 3.74. Each panel must have representation from both magistrate and non-magistrate advisory committee members, all of whom are of equal standing.
- 3.75. For applications to the family court, at least one magistrate member should be a family magistrate.
- 3.76. For applications to the adult (criminal) court, at least one magistrate member should be an adult (criminal) magistrate.
- 3.77. If committees experience difficulties in securing sufficient interviewers, they should seek assistance from other recruitment advisory committees
- 3.78. If on day of interview a panel member drops out and cannot be replaced, candidates must be asked if they are content to proceed with the interview. Candidates who are not content to do so should be offered an interview at a later date.
- 3.79. For a panel of two to proceed under **paragraph 3.78** above there must still be magistrate and non-magistrate representation. Where the interview is for family, the magistrate must be a family magistrate and where the interview is for crime the magistrate must be a criminal magistrate.
- 3.80. The panel chair can be either a magistrate or a non-magistrate advisory committee member.
- 3.81. Both first and second interview panels should be as diverse as possible. It is recognised that advisory committees are reliant on the availability of members to participate in interviews but consideration of diversity should be a key factor when convening panels. The only persons who may observe interviews by prior arrangement are:
- an official from Magistrates HR in Judicial Office
  - someone authorised by the Senior Presiding Judge
  - the advisory committee chair
  - the Secretary to the advisory committee (or their deputy)
  - a new committee member (limited to one per interview)
- 3.82. Candidates should be informed prior to the interview if an observer will be present and asked to confirm that they have no objection. If an objection is made, the observer should withdraw from the interview.

## **Treatment of candidates at interview**

- 3.83. The purpose of the interview is to assess candidates on merit against the key qualities. Interview panels should keep in mind that candidates have put themselves forward for a voluntary unpaid role, will come from a variety of different backgrounds, and will have varying degrees of interview experience.
- 3.84. While candidates should leave the interview feeling they have been properly tested, they should feel that this has been done with courtesy and professionalism.

## **Candidates with disabilities**

- 3.85. Reasonable adjustments should be made to enable candidates to attend interviews.
- 3.86. Candidates with a disability must not be asked any questions about their disability, or how they think it might affect their ability to serve as a magistrate. This includes questions about getting to court/access to buildings. If a candidate attempts to discuss this topic at their interview, they should be informed that it is not appropriate to do so, and reassured that the purpose of the interview is to assess them solely on merit. (see also **paragraphs 3.145- 3.147**).

## **Interviews**

### **The following general guidance applies to first and second interviews.**

- 3.87. Each panel member should complete an assessment form before anyone expresses their views about the candidate. The panel chair should then ask each member for their views, before giving their own view.
- 3.88. The panel chair should ensure that a finalised assessment form is completed, evidencing the panel's joint assessment. This form should be thorough, concise and legible. Assessment forms completed by individual panel members should be securely destroyed at the conclusion of the interview.
- 3.89. It is vital that the form records robust, valid and reliable evidence, particularly in the event of a request for a review of the panel's decision or some other challenge. It is strongly recommended that verbatim quotes from candidates be used to evidence assessment against the key qualities.
- 3.90. Secretaries, or their deputies, should not hesitate to request clarification from panels if the assessment form is not clear, evidenced, and in line with the Directions.

## The first interview

### Preparation

- 3.91. Candidates must be asked to bring at least **three forms of identification** to enable their identity to be confirmed. These should include at least one from the following category (and must be originals):

passport; or  
driving licence; or  
full birth certificate.

**and** at least one from the following category (received within the past 2 months):

utility bill; or  
bank statement; or  
credit card statement (or similar).

- 3.92. The candidate should be asked for their proof of identity before the interview.

### Timing

- 3.93. First interviews should normally last around 30-45 minutes.

### Purpose and content

- 3.94. The panel chair should put the **good character and background question** (verbatim) to the candidate early in the interview. This is to allow sufficient time for any issues to be fully explored:

#### **Good character and background question**

“Is there anything in your private or working life, past or present, or the lives of your family or friends, which could damage your credibility as a magistrate if it became known to the public?”

- 3.95. The remainder of the interview should focus on more general topics. This should include some discussion of criminal or family issues agreed on by the panel members. For applicants to adult (criminal) court, this might be the impact of drugs on crime and society, drink-driving, and youth crime. For applicants to the family court, discussions might include the nature of modern family life, the impact of parental separation or other factors that affect the welfare of a child.
- 3.96. Panels should invite candidates to talk about their observational visits to a magistrates' court, or their research of material relating to the family court.
- 3.97. Panels should also confirm the candidate's awareness of the general expectation that they will offer at least **five years** of service and seek an indication that they expect to be able to do so. However, candidates must

not be required to give an undertaking to serve for this period, as this would not take into account that their personal circumstances might change.

### **Completion of assessment forms**

- 3.98. The first interview assessment form at **Appendix 3D** should be completed after each interview.
- 3.99. Where a candidate is not to be put forward for a second interview, the assessment form must clearly set out the reasons for the decision and provide the relevant evidence.
- 3.100. The completed forms for candidates who are to proceed to a second interview should record any issues which require further exploration by the second stage panel and highlight any particular points for the interview panel to be aware of.

### **Discretion to consider candidates who have not met some of the key qualities for a second interview**

- 3.101. If the assessment of the panel at first interview is 'not demonstrated' against one or more of the key qualities (with the exception of 'good character' and 'commitment and reliability'), the panel may still consider whether the candidate has demonstrated sufficient potential to recommend them for a second interview. The decision rests entirely with the panel and there is no expectation as to the proportion of such candidates who go forward to a second interview.

## **The second interview**

### **Disclosure and Barring Service (DBS) clearance**

- 3.102. Candidates recommended for appointment as magistrates must have **enhanced level** DBS clearance.
- 3.103. Candidates invited to second interview should be asked, prior to the interview, to complete the DBS disclosure application form and the declaration and undertaking form.
- 3.104. The DBS application forms must be obtained from Magistrates HR, not requested direct from the DBS.
- 3.105. Each committee should have at least two designated DBS counter signatories for the Magistrates Appointments Registered Body "Magistrates Branch Lord Chancellors Dept". If there is a need to set up a new counter signatory, committees should contact Magistrates HR, who will provide the relevant application form.
- 3.106. It is vital that the forms are completed properly otherwise they will be returned by the DBS causing delay and potentially resulting in DBS penalty charges being incurred.

- 3.107. Brief guidance on completing the disclosure application form follows. The DBS also publishes useful guidance online, including for applicants. This information can be accessed via the following website:

[www.gov.uk/disclosure-barring-service-check](http://www.gov.uk/disclosure-barring-service-check)

- 3.108. The applicant should complete **sections A, B, C (if appropriate), and E**. Responses are mandatory to all questions in boxes highlighted in yellow.
- 3.109. The advisory committee countersignatory or designated committee secretariat member should complete **sections W and X**. Key information to be inputted at section X is given in the table below.
- 3.110.

<b>Section X of DBS Application Form</b>	<b>Information Required to be Inputted by Advisory Committee Countersignatory or Committee Staff Member</b>
Position Applied For:	<b>OTHER WORKFORCE MAGISTRATE</b>
Organisation Name	<b>MAGISTRATES HR</b>
Level of check required	<b>ENHANCED</b>
Are you entitled to know whether the applicant is registered to work with children?	Check with a cross in the box marked <b>'yes'</b>
Are you entitled to know whether the applicant is registered to work with vulnerable adults?	Check with a cross in the box marked <b>'no'</b>
Does this position involve working with children or vulnerable adults at the applicant's home address?	Check with a cross in the box marked <b>'no'</b>
Application type	Check with a cross in the box marked <b>'new post holder'</b>
Is this application for a free of charge volunteer	Check with a cross in the box marked <b>'yes'</b> . (Failure to do so will generate a DBS penalty charge.)

- 3.111. The countersignatory should complete section **Y** by **signing the form** and entering their unique **countersignatory number** as confirmed to them by the DBS upon their appointment as a countersignatory.

### **Timing**

- 3.112. Second stage interviews should, wherever practicable, take place on the same day as the first interview. If that is not possible, it should occur no later than **fifteen working days** after the first stage interview. The interview will normally last for around **45 minutes to 1 hour**.

### **Preparation**

- 3.113. Candidates should be given the two interview exercises (see **paragraphs 3.119 - 3.121** below) **30 minutes** before the interview and should have been asked to arrive sufficiently early for this purpose.
- 3.114. If the second interview takes place on a different date to the first interview candidates must be asked again to bring at least three forms of identification to enable their identity to be confirmed. These should include at least one from the following category (and must be originals):

passport; or  
driving licence; or  
full birth certificate.

**and** at least one from the following category (received within the past 2 months):  
utility bill; or  
bank statement; or  
credit card statement (or similar).

- 3.115. The candidate should be asked for their proof of identity before the interview. A suitable time would be when they are given the two exercises to consider.
- 3.116. The documents must not be photocopied or retained by the committee.
- 3.117. Panel members will need to be familiar with the interview exercises and case-studies being used, as well as the content of the first interview assessment form and any matters identified as requiring clarification or further exploration.

### **Purpose and content**

- 3.118. The primary purpose of the second interview is to test potential judicial aptitude.
- 3.119. For adult (criminal) court interviews, the interview exercises should comprise one list of ten or so offences/serious matters, from which candidates will be asked to rank the four most serious offences in order of

their perceived degree of seriousness. The other exercise should be a case-study that focuses on one fictionalised offence being considered by the bench for sentencing.

- 3.120 The interview exercises for the family court should consist of a variety of family law scenarios capable of being dealt with by magistrates, from which candidates will be asked to consider the impact upon the welfare of the child(ren). The other exercise should be a case study that focuses on one fictionalised scenario being considered by the bench for an order.
- 3.121. Committees should use the exercises provided centrally and updated at least every two years.
- 3.122. When discussing the case-study or other hypothetical scenarios, the candidate should not be asked to suggest specific outcomes, as they cannot be expected to know about this. However, if a candidate suggests an outcome, the Panel can explore what the candidate would hope to achieve through that outcome.
- 3.123. Panels should avoid using legal terms or jargon.
- 3.124. At the end of the interview, the panel chair must put the good character and background question verbatim to the candidate again.

#### **Completion of assessment form**

- 3.125. The second interview assessment form at **Appendix 3E** should be completed after each interview.

#### **Scoring candidates' performance**

- 3.126. Second interview panels are required to operate the following scoring system against the key qualities of **understanding and communication**; **social awareness**; **maturity and sound temperament**; and **sound judgement**.
- 0** Not demonstrated – little or no positive
  - 1** Demonstrated – generally positive evidence
  - 2** Well demonstrated – positive evidence
  - 3** Very well demonstrated
- 3.127. Good character and commitment and reliability do not need to be scored. They are either demonstrated or not demonstrated.
- 3.128. A candidate who has demonstrated good character and commitment and reliability and scored at least **one** against each of the other qualities has met the minimum standard for appointment.
- 3.129. A candidate who has reached the minimum standard must not be rejected on the basis of scoring lower than other candidates. Ranking based on scores only becomes necessary where there are more suitable candidates



than vacancies (see also '**Procedure where there are more suitable candidates than vacancies**' below).

## **Post assessment procedures**

### **Advisory committee recommendation for appointment**

- 3.130. The full committee, or quorum, should aim to decide on the candidates to be recommended within **15 working days** of an interview programme ending. Any quorum should comprise the advisory committee Chair and no less than six members, a third of which should be non-magistrates. A quorum should not comprise solely those who interviewed the candidates being considered for appointment so as to allow for independent challenge from other advisory committee members.
- 3.131. The recommendation process may be carried out in person or virtually using telephone or digital means
- 3.132. The advisory committee, or quorum, should be provided, via secure means, with the score sheets and will make the final decision as to who is recommended for appointment based upon merit. Those scoring four or above are eligible and may be recommended for appointment.

### **Procedure where there are more suitable candidates than vacancies**

- 3.133. Where the number of candidates who have achieved the minimum standard required for appointment exceeds the number of vacancies, the committee should recommend the highest-scoring candidates. If candidates achieve equal total scores and there are insufficient vacancies to recommend them all, the advisory committee should direct the panel to revisit their assessments and decide which of the candidates to recommend on merit.
- 3.134. The fact that reasonable adjustments may be required must not be a consideration in making a recommendation
- 3.135. The secretary should also take the following steps:
- check with HMCTS whether it would be practicable and in line with established business need to appoint all of the successful candidates
  - check whether nearby areas can offer appointments

### **Sending disclosure forms to the DBS**

- 3.136. When the advisory committee/quorum has decided on the candidates to be recommended for appointment, completed DBS forms should be sent to the DBS as soon as possible to minimise potential delays in appointment.

Completed disclosure application forms should be sent to the DBS by **recorded post**.

- 3.137. The secretary to the committee should contact Magistrates HR immediately in the event of any concerns about the DBS misplacing completed disclosure application forms.
- 3.138. Advisory committees should allow a minimum of **30 working days** for DBS checks to be completed.
- 3.139. Advisory committee countersignatories do not receive copies of disclosure record certificates from the DBS. Once candidates have received a DBS certificate, they must bring it in and show it to someone on the committee secretariat team who must make a written note of the date when they saw it.

#### **Notifying candidates about the outcome of their application**

- 3.140. Candidates should be notified of the outcome of their application within **five working days** of the committee's decision.
- 3.141. Communications to unsuccessful candidates should explain why the candidate is not being recommended for appointment giving sufficient detail to enable the candidate to reflect on the reasons for the decision should they wish to reapply in future. The feedback should be clear, concise, meaningful, and tactful.
- 3.142. Communications to candidates who have met the minimum standard for appointment, but who are not being recommended due to not being amongst the highest scoring candidates should be informed of this reason and encouraged to consider reapplying when further vacancies arise in future.
- 3.143. Committees may wish to consider informing such candidates in their decision letter that there is an alternative public service option in, for example, seeking appointment as a member of the Independent Monitoring Board for prisons.

#### **Candidates with disabilities**

- 3.144. To ensure compliance with the Equality Act 2010, when Magistrates HR write to all candidates confirming their appointment by the Senior Presiding Judge, candidates will be asked to contact the secretary of the advisory committee if they require reasonable adjustments to assist them in carrying out the duties of a magistrate, such as specialist equipment or adaptations to court buildings.
- 3.145. If the candidate confirms that they require reasonable adjustments, the secretary to the advisory committee will then need to consider what arrangement can be put in place to assess the practicality of providing those adjustments.

- 3.146. The presumption must always be in favour of finding ways in which adjustments can be provided. Committees should be as flexible as possible in considering how that could be achieved, for example exploring the possibility of serving on a different bench to the one to which they would normally be assigned, if adaptations to the court buildings are not possible.

## **Review of a quorum's or committee's decision**

- 3.147. Candidates not recommended for a second interview or who are assessed as having failed to meet the minimum standard for appointment following the second interview are entitled to seek a review of the decision if they believe the selection process has been misapplied or if a member of the interview panel behaved inappropriately.
- 3.148. They should be made aware of this and given a deadline of no more than **15 working days** from date of the letter to submit their request for a review. Candidates should also be informed that a request received after the deadline will not be taken forward.
- 3.149. The advisory committee is responsible for reviewing decisions in the first instance. It should aim to do so within **20 working days** of receiving a request for a review.
- 3.150. Where it is not practicable for the full advisory committee to review the decision, a separate review quorum of three advisory committee members should be convened to do so. These three members should include both magistrate and non-magistrate committee members.
- 3.151. Where applicable, it is important for the recollections of the panel members who took part in the interview to be sought and considered as part of the review process. This information may also be required if the matter is subsequently referred to the Senior Presiding Judge for consideration.
- 3.152. The advisory committee or review quorum may decide to uphold the decision. Alternatively, they may decide that the candidate should be interviewed (if they have not already been interviewed), or re-interviewed by a different panel.
- 3.153. Candidates should be notified within **five working days** of the outcome of the review and be given reasons for the decision made. They must also be advised that, if they do not accept the decision, they may request a review by the Senior Presiding Judge.

### **Request for review by the Senior Presiding Judge**

- 3.154. The Senior Presiding Judge will only consider upholding a request for a review if there is clear evidence that the selection process has been

misapplied or that a member of the interview panel behaved inappropriately.

- 3.155. There is no right of appeal to the Senior Presiding Judge for candidates who are assessed as appointable but who aren't recommended due to others scoring higher. Letters to such candidates should make clear the committee's decision on non-recommendation is final.
- 3.156. If the advisory committee receives a request for a review of their decision, this should be forwarded, with all relevant papers to Magistrates HR within **five working days**. If the completed assessment forms are not clearly legible, the committee will need to include a typed version of the form approved and signed by the panel chair (or verified as an accurate copy by the committee secretary).
- 3.157. The target for completion of a review by the Senior Presiding Judge is **33 working days** from receipt of all relevant papers. However, occasional delays may occur because of demands on the Senior Presiding Judge's time.
- 3.158. The Senior Presiding Judge's decision is final.
- 3.159. The Senior Presiding Judge may decide to uphold the advisory committee/review quorum's decision or may decide that the candidate must be interviewed (or re-interviewed). The Senior Presiding Judge will write personally to the candidate on completion of the review. The letter will be copied to the secretary of the advisory committee.
- 3.160. If the Senior Presiding Judge does not uphold the advisory committee's decision, Magistrates HR will request and provide the secretary with a summary of any reasons given.